IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6200 of 1993

For Approval and Signature:

HON'BLE MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

THE CONCILIATION OFFICER

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Appearance:

1. Special Civil Application No. 6200 of 1993

MR KN RAVAL for Petitioner No. 1

GOVERNMENT PLEADER for Respondent No. 1-2

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CORAM : HON'BLE MR.JUSTICE H.K.RATHOD

Date of decision: 26/03/2004

ORAL JUDGEMENT

Today this Court has allowed Misc. Civil Application and recalled the order passed by this Court on 5.11.2003 and main Special Civil Application has been

restored to the original file. Therefore, with the consent of learned advocates appearing for both the parties, main Special Civil Application No. 6200 of 1993 is taken up for final hearing.

2. In the present petition, the Corporation has challenged the order dated 6.3.1992 passed by the Conciliation Officer, Godhra under Section 33(2) (b) of Industrial Disputes Act, 1947, wherein, the approval application has been rejected by the conciliation officer. Initially, in this matter this Court has passed following order on 20.8.1993:

"Notice returnable on 1.9.1993. Meanwhile it is clarified that filing of the petition and pendency of the petition, shall not be treated as ground by the petitioner Corporation for not complying with the order passed by the Labour Court. On the contrary, it is necessary for the petitioner-Corporation which is "State" as provided under Article 12 of the Constitution of India to comply with the order passed by the Labour Court, immediately. It is hoped that before the returnable date, the order passed by the conciliation officer refusing to grant approval shall be complied with. The refusal to grant approval would mean that the petitioner-Corporation is required to reinstate the workman."

In the said order, this Court has considered the fact that conciliation officer has refused to grant approval that is required to be complied by the Corporation. Workman must have to be reinstated in service. Learned advocate Mr. Rawal has no instructions whether workman has been reinstated or not. Thereafter, this Court has issued rule on 23.11.1993.

3. I have considered the submissions made by learned advocate Mr. Rawal and learned AGP Mr. N.D.Gohel appearing on behalf of respondent. Considering the submissions made by both the learned advocates, I have perused the order passed by the conciliation officer. Considering the fact that conciliation officer has come to conclusion that at the time when the respondent workman was dismissed from service, corporation has not paid one month's complete salary to the respondent workman and there was a shortage of Rs.36 paise and therefore, there was no sufficient and strict compliance of the mandatory provisions of Section 33(2)(b) of the

Act and on that ground approval application is rejected. According to my opinion, the conciliation officer has rightly decided the matter. There is no error committed by the conciliation officer. Hence, no interference is required by this Court while exercising powers under Articles 227 of the Constitution of India. Hence, present petition is dismissed. Rule is accordingly discharged. Interim relief, if any, stands vacated.

(H.K.Rathod,J)

Jayanti*